

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES FRANK SPENCE,

Petitioner,

No. 2:03-cv-1987 GEB JFM P

vs.

ALEXANDER HICKMAN, Warden,

Respondent.

ORDER

Petitioner is a state prisoner proceeding through counsel with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On March 4, 2004, respondent lodged the Clerk's Transcript on Appeal, Clerk's Augmented Transcript on Appeal and the Reporter's Transcripts on Appeal. However, review of the record reveals that both the trial court and the appellate court viewed a videotape of petitioner's alleged confession that took place on April 18, 1997. The videotape¹ has not been provided by either party herein.

Good cause appearing, respondents will be directed to obtain and submit said videotape to this court for review.

¹ The videotape is referenced in Superior Court Case No. 97F07939 and Appellate Court Case No. C030715. Petitioner was interviewed on April 18, 1997 at 7:14 p.m. Another document refers to the videotape as "Tape Code 2655."

1 IT IS HEREBY ORDERED that within fifteen days from the date of this order,
2 respondents shall submit the videotape of petitioner's April 18, 1997 alleged confession.

3 DATED: September 22, 2008.

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6 UNITED STATES MAGISTRATE JUDGE

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